

been and now are dependent from claim 2, which recites "the scanning step" and the "data base", as well as claim 1 reciting the bone.

Claim 9 has been clarified so that it is clear that the solidifying step is further limited by reciting that it comprises the cementing of particles together with a polymer.

The Examiner also rejected claims 1-3, 12 and 13 under 35 U.S.C. 102(a) as anticipated by Bresina et al., and then rejected claims 4 and 5 under 35 U.S.C. 103 as being unpatentable over Bresina et al in view of Walker et al..

Applicant's invention is believed neither anticipated by nor obvious from Bresina or any other collection of prior art because the Bresina structure teaches making a mold and not making the substitute bone or prosthesis, and perhaps for additional reasons which would be revealed upon further study. However, because Applicant's invention was made before the Bresina publication and the Bresina publication was less than one year before Applicant's filing date, Applicant has filed herewith the required Rule 131 Affidavit swearing back of the Bresina reference. The appended affidavit includes exhibits appended thereto.

A reading of the descriptive portion of Exhibit C will quickly reveal that much of the patent application was plagiarized by Applicant's attorney from that document. Pages 11-13 address the ceramic materials which may be used to form implants. Pages 14-16 address Free-Form Manufacturing and the

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use of computed tomography. On pages 9 and 10, the document discloses the integration of the technologies in the manufacture of a bone replica for implantation in an animal body.

These documents show conception of the invention prior to the publication of the Bresina reference, which appears to have been no earlier than April 24, 1992. Furthermore, the planning for and carrying out of the research project, evidenced by the appended exhibits, clearly shows diligence beginning from a time prior to the April 24 date and extending beyond the filing date of the patent application.

Therefore, it is believed that the Bresina reference is no longer applicable because the accompanying Rule 131 Affidavit shows that Applicants conceived the invention well before the date of the reference and followed that conception by a diligent attempt to reduce the invention to practice, terminating in a constructive reduction to practice by the filing of this patent application.

Therefore, acceptance of the Rule 131 Affidavit and reconsideration and allowance are respectfully requested.

Respectfully submitted,

2-28-94

Date of Signature

  
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Enclosure: Return receipt postcard  
Rule 131 Affidavit  
Exhibits for Affidavit  
Request for extension of time and fee